



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF Confirmation No.: 4293

SCHREIBER Atty. Ref.: 555-56

Serial No.: 09/535,951 Group Art Unit: 1617

Filed: March 27, 2000 Examiner: Hui, S.

For: METHOD OF TREATING ATHEROSCLEROSIS

* * * * *

June 23, 2004

*Free Purpose
Only*

AMENDMENT UNDER RULE 116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated March 23, 2004, in the above matter. Kindly amend this application as follows.

06/30/2004 PTUCK1 00000002 141140 09535951
01 FC:1201 172.00 DA

849527

SCHREIBER
Serial No.: 09/535,951
June 23, 2004

teaching the importance of angiogenesis in pathogenesis, as the Examiner contends.

In view of the facts that: i) the teachings of Clark are limited to ocular neovascularization, and ii) Pels et al does not teach that angiogenesis is involved in the pathogenesis of atherosclerotic plaque, the Examiner's rejection of the claims as obvious must fail. Indeed, it is apparent that the rejection is not fairly based on what the cited references teach or would have suggested but rather on improper hindsight-based reasoning having in mind the present invention. Accordingly, reconsideration and withdrawal of the rejection are requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,
NIXON & VANDERHYE, P.C.

By Mary J. Wilson
Mary J. Wilson
Reg. No. 32,955

MJW:tat

1100 North Glebe Road
8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100